

HOUSE BILL NO. 181

INTRODUCED BY M. JOPEK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR TWO ADDITIONAL PUPIL-INSTRUCTION-RELATED DAYS; PROVIDING FOR MANDATORY ATTENDANCE, WITH THE CONTENT OF THOSE DAYS DETERMINED BY THE TRUSTEES OF THE SCHOOL DISTRICT; AND AMENDING SECTIONS 20-1-304, 20-2-121, AND 20-9-311, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-1-304, MCA, is amended to read:

"20-1-304. Pupil-instruction-related day. (1) A pupil-instruction-related day is a day of teacher activities devoted to improving the quality of instruction. The activities may include but are not limited to inservice training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of 7 9 pupil-instruction-related days may be conducted during a school year, with a minimum of 3 5 of the days for instructional and professional development meetings or other appropriate inservice training; if Except as provided in subsection (2), the days are must be planned in accordance with the policy adopted by the board of public education.

(2) At least 5 of the pupil-instruction-related days must be attended by all certified staff. The content of the mandatory attendance days must be determined by the board of trustees for the district.

(3) The pupil-instruction-related days may not be included as a part of the required minimum aggregate hours of pupil instruction."

Section 2. Section 20-2-121, MCA, is amended to read:

"20-2-121. Board of public education -- powers and duties. The board of public education shall:

(1) effect an orderly and uniform system for teacher certification and specialist certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and 20-4-111;

(2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

- 1 (3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;
- 2 (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction,
3 and operation of school buses in accordance with the provisions of 20-10-111;
- 4 (5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types
5 of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of
6 20-1-303 and 20-1-304(1);
- 7 (6) adopt standards of accreditation and establish the accreditation status of every school in accordance
8 with the provisions of 20-7-101 and 20-7-102;
- 9 (7) approve or disapprove educational media selected by the superintendent of public instruction for the
10 educational media library in accordance with the provisions of 20-7-201;
- 11 (8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;
- 12 (9) adopt rules for issuance of documents certifying equivalency of completion of secondary education
13 in accordance with 20-7-131;
- 14 (10) adopt policies for the conduct of programs for gifted and talented children in accordance with the
15 provisions of 20-7-903 and 20-7-904;
- 16 (11) adopt rules for student assessment in the public schools; and
- 17 (12) perform any other duty prescribed from time to time by this title or any other act of the legislature."

- 18
- 19 **Section 3.** Section 20-9-311, MCA, is amended to read:
- 20 **"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- three-year averaging.**
- 21 (1) Average number belonging (ANB) must be computed for each budget unit as follows:
- 22 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
23 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
24 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
25 divide the sum by two; and
- 26 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
27 pupil-instruction-related days for the current school fiscal year and divide by 180.
- 28 (2) For the purpose of calculating ANB under subsection (1), up to ~~7~~9 approved pupil-instruction-related
29 days may be included in the calculation.
- 30 (3) When a school district has approval to operate less than the minimum aggregate hours under

1 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

2 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an
3 education program:

4 (i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time
5 enrollment;

6 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
7 enrollment;

8 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
9 enrollment; and

10 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

11 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
12 school year may not be included for purposes of ANB.

13 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
14 the hours necessary and appropriate to provide the course within a regular classroom schedule.

15 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,
16 or district may not be counted as more than one full-time pupil for ANB purposes.

17 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in
18 a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as
19 one-half pupil for ANB purposes.

20 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
21 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
22 attendance prior to the day of the enrollment count.

23 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
24 calculations.

25 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
26 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
27 district, except that the ANB is calculated as a separate budget unit when:

28 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
29 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
30 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must

1 receive a basic entitlement for the school calculated separately from the other schools of the district;

2 (ii) a school of the district is located more than 20 miles from any other school of the district and
3 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
4 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
5 calculated separately from the other schools of the district;

6 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
7 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
8 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
9 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
10 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
11 other schools of the district; or

12 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
13 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
14 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
15 years as follows:

16 (A) 75% of the basic entitlement for the fourth year;

17 (B) 50% of the basic entitlement for the fifth year; and

18 (C) 25% of the basic entitlement for the sixth year.

19 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
20 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
21 purposes;

22 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
23 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
24 school pupils for ANB purposes; or

25 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
26 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
27 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
28 program for the district.

29 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
30 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the

1 superintendent.

2 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
3 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
4 only if the pupil is offered access to the complete range of educational services for the basic education program
5 required by the accreditation standards adopted by the board of public education.

6 (b) Access to school programs and services for a student placed by the trustees in a private program
7 for special education may be limited to the programs and services specified in an approved individual education
8 plan supervised by the district.

9 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
10 youth detention center, may be limited to the programs and services provided by the district at district expense
11 under an agreement with the incarcerating facility.

12 (d) This subsection (10) may not be construed to require a school district to offer access to activities
13 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
14 pupil who is not otherwise eligible under the rules of the organization.

15 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this
16 title and who is:

17 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
18 agreement and who is attending a school of the district;

19 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
20 individualized educational services supervised by the district, at district expense, at a home or facility that does
21 not offer an educational program;

22 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
23 center, and who is receiving individualized educational services supervised by the district, at district expense, at
24 a home or facility that does not offer an educational program;

25 (d) receiving special education and related services, other than day treatment, under a placement by the
26 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
27 expense under an approved individual education plan supervised by the district;

28 (e) participating in the running start program at district expense under 20-9-706;

29 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
30 a private residential program or private residential facility licensed by the department of public health and human

1 services;

2 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
3 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
4 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
5 instructional setting with the approval of the trustees of the district. The pupil shall:

6 (i) meet the residency requirements for that district as provided in 1-1-215;

7 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
8 Education Act or under 29 U.S.C. 794; or

9 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

10 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
11 the district under 20-9-707.

12 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
13 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
14 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
15 generates the greatest maximum general fund budget.

16 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
17 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
18 high school programs pursuant to subsection (12)(a) and then combined.

19 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

20 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
21 previous 2 school fiscal years; and

22 (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec. 25(2),
23 Ch. 462, L. 2005.)

24 **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year**
25 **averaging.** (1) Average number belonging (ANB) must be computed as follows:

26 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
27 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
28 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
29 divide the sum by two; and

30 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved

1 pupil-instruction-related days for the current school fiscal year and divide by 180.

2 (2) For the purpose of calculating ANB under subsection (1), up to 79 approved pupil-instruction-related
3 days may be included in the calculation.

4 (3) When a school district has approval to operate less than the minimum aggregate hours under
5 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

6 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an
7 education program:

8 (i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time
9 enrollment;

10 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
11 enrollment;

12 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
13 enrollment; and

14 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

15 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
16 school year may not be included for purposes of ANB.

17 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
18 the hours necessary and appropriate to provide the course within a regular classroom schedule.

19 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,
20 or district may not be counted as more than one full-time pupil for ANB purposes.

21 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in
22 a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as
23 one-half pupil for ANB purposes.

24 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
25 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
26 attendance prior to the day of the enrollment count.

27 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
28 calculations.

29 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
30 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the

1 district, except that when:

2 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
3 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
4 full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic
5 entitlement for the school calculated separately from the other schools of the district;

6 (ii) a school of the district is located more than 20 miles from any other school of the district and
7 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
8 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
9 calculated separately from the other schools of the district;

10 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
11 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
12 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
13 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
14 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
15 other schools of the district; or

16 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
17 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
18 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
19 years as follows:

20 (A) 75% of the basic entitlement for the fourth year;

21 (B) 50% of the basic entitlement for the fifth year; and

22 (C) 25% of the basic entitlement for the sixth year.

23 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
24 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
25 purposes;

26 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
27 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
28 school pupils for ANB purposes; or

29 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
30 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,

1 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
2 program for the district.

3 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
4 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
5 superintendent.

6 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
7 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
8 only if the pupil is offered access to the complete range of educational services for the basic education program
9 required by the accreditation standards adopted by the board of public education.

10 (b) Access to school programs and services for a student placed by the trustees in a private program
11 for special education may be limited to the programs and services specified in an approved individual education
12 plan supervised by the district.

13 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
14 youth detention center, may be limited to the programs and services provided by the district at district expense
15 under an agreement with the incarcerating facility.

16 (d) This subsection (10) may not be construed to require a school district to offer access to activities
17 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
18 pupil who is not otherwise eligible under the rules of the organization.

19 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this
20 title and who is:

21 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
22 agreement and who is attending a school of the district;

23 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
24 individualized educational services supervised by the district, at district expense, at a home or facility that does
25 not offer an educational program;

26 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
27 center, and who is receiving individualized educational services supervised by the district, at district expense, at
28 a home or facility that does not offer an educational program;

29 (d) receiving special education and related services, other than day treatment, under a placement by the
30 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's

- 1 expense under an approved individual education plan supervised by the district;
- 2 (e) participating in the running start program at district expense under 20-9-706;
- 3 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
- 4 a private residential program or private residential facility licensed by the department of public health and human
- 5 services;
- 6 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
- 7 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
- 8 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
- 9 instructional setting with the approval of the trustees of the district. The pupil shall:
- 10 (i) meet the residency requirements for that district as provided in 1-1-215;
- 11 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
- 12 Education Act or under 29 U.S.C. 794; or
- 13 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.
- 14 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
- 15 the district under 20-9-707.
- 16 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
- 17 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
- 18 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
- 19 generates the greatest maximum general fund budget.
- 20 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
- 21 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
- 22 high school programs pursuant to subsection (12)(a) and then combined.
- 23 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:
- 24 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
- 25 previous 2 school fiscal years; and
- 26 (b) dividing the sum calculated under subsection (13)(a) by three."

27 - END -